

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Petition
D-417 Gem Lake/A-7228
Vadnais Heights
(Hansen Petition; 19.07 acres)
Pursuant to Minnesota
Statutes 414 (A-7212)

**ORDER DENYING MOTION TO
DISMISS, REQUIRING
COMPLIANCE WITH RULE 17.01
AND SETTING A PREHEARING
CONFERENCE**

The above entitled case is presently pending before Administrative Law Judge Raymond R. Krause. On November 17, 2005, the City of Gem Lake, Respondent, moved to dismiss on the grounds that all owners of the property at issue have not signed the Petition as required by Minn. Stat. § 414.061, subd. 5. Bryan M. Hansen, Petitioner, filed a memorandum of law in opposition to the motion on December 2, 2005. Respondent City of Vadnais Heights did not file a memorandum of law.

Bryan M Hansen, P.O. Box 10843, White Bear Lake, MN 55110, represented himself *pro se*.

Edward W. Gale, Leonard, O'Brien, Spencer, Gayle & Sayre, 100 South 5th Street, Suite 2500, Minneapolis, MN 55402-1234, represented the City of Gem Lake.

Caroline Bell-Beckman, Jensen, Bell, Converse & Erickson, 1500 Wells Fargo Place, 30 East 7th Street, St. Paul, MN 55101-4936, represented the City of Vadnais Heights.

The ALJ concludes that the submissions of the parties provide sufficient information for ruling on this motion and that there is no need for oral argument. Based upon all of the filings in this matter, and for the reasons discussed in the attached Memorandum,

IT IS HEREBY ORDERED that:

1. Respondent, City of Gem Lake's motion to dismiss is DENIED.
2. An amended Petition shall be filed no later than 30 days from the date of this Order to reflect the Petitioner's intentions regarding any easement on the property at issue in these proceedings.
3. Robert J. Hansen shall, within 30 days from the date of this order, file original, signed, notarized documents with the Office of Administrative Hearings that fulfill all requirements of Rule 17.01 of the Minnesota Rules of Civil Procedure and all other applicable rules and statutes relevant to this proceeding that demonstrate his role in these proceedings.
4. A Prehearing conference by telephone will be scheduled to reset deadlines for discovery.

Dated: this 7th day of December, 2005

s/Raymond R. Krause
RAYMOND R. KRAUSE
Chief Administrative Law Judge

MEMORANDUM

On January 14, 2005, Bryan Hansen, Petitioner, filed a petition for detachment of certain property located in the City of Gem Lake pursuant to Minn. Stat. § 414.061. Bryan Hansen was the sole signatory to the petition. The City of Gem Lake moved to dismiss the petition on the grounds that there are other owners of the property who have not signed the petition as required by Minn. Stat. § 414.061, subd. 5.

Respondent, City of Gem Lake, alleges that Robert J. Hansen is, as a result of a decision by Ramsey County District Court, a co-owner of the property that is the subject of the petition. The judgment in that case was dated October 13, 2005, almost ten months after the petition was filed.¹

¹ Ex. B to Memorandum in Support of Motion.

Minn. R. 1400.6600 provides that the ALJ shall apply the Rules of Civil Procedure for the District Court of Minnesota to the extent that it is appropriate. Although Respondent City of Gem Lake brings its motion under Rule 12.02(f), the motion is appropriately characterized as a motion for dismissal under Rule 17.01 for failure to join the real party in interest. Rule 17.01 provides:

No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.²

Respondent City of Gem Lake's motion is denied because Petitioner has not had a reasonable time after objection to comply with Rule 17.01.

Petitioner Bryan Hansen has submitted photocopies of a letter purportedly from his brother, Robert J. Hansen, who has, as a result of the Ramsey County District Court decision, a one-half ownership interest in the property at issue. The letter states that he joins the petition filed by Bryan Hansen. The photocopy of the letter is insufficient.

In support of its motion to dismiss, Respondent City of Gem Lake has submitted court orders from the aforementioned action in Ramsey County District Court, *Jill S. Hansen et al vs. Robert J. Hansen*, 62-C8-04-005858 (July 26, 2005 and October 13, 2005). In these orders District Judge David C. Higgs states in part:

Bryan Hansen has lied, committed forgery and committed innumerable bad business dealings in furtherance of personal wealth, all at the expense of his family trusts....Again, Robert Hansen's hands are themselves not clean, but his conduct failed to fall to the levels of his brother.

In light of these comments by District Judge Higgs, the ALJ will demand the highest standards of conduct from Bryan M. Hansen and Robert J. Hansen if he participates in this proceeding and will demand strict compliance with all applicable rules and statutes. Evidence of any intentional misconduct or fraud may result in dismissal of this action and other sanctions as may be appropriate.

² Minn. R. Civ. P. 17.01.

Robert J. Hansen has 30 days from the date of this order to file original, signed and duly notarized documents with the Office of Administrative Hearings that fulfill all requirements of Minnesota Rule of Civil Procedure 17.01 and all other applicable rules and statutes demonstrating his role in these proceedings.

Respondent, City of Gem Lake also notes that the Petition included reference to an easement which is apparently owned by the South Roadowners Association of Gem Lake, Inc. Petitioner states that it was not his intention to include the easement in these proceedings. Petitioner has 30 days from the date of this order to file an amended Petition that accurately reflects the property subject to the petition. Failure to comply with either of these conditions will make a resubmission of Respondent City of Gem Lake's motion to dismiss appropriate.

The ALJ also notes that the parties have not complied with the Prehearing Order issued in this case. Respondent City of Gem Lake apparently refused to produce witnesses for scheduled depositions after it filed its motion to dismiss for failure to name the real party in interest. The City of Gem Lake never filed a motion to postpone or alter the Prehearing Order's discovery dates. The motion to dismiss in no way justified non-compliance with the Prehearing Order. All parties are advised that they may not ignore the orders of the Administrative Law Judge.

A second Prehearing conference shall be scheduled to set new time parameters for discovery.

R.R.K.